

# STAYING FOCUSSED: THE ACCC'S KEY PRIORITIES FOR 2017

28 February 2017 | Australia

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The Australian competition watchdog will maintain its gaze on perennial competition and consumer issues in 2017 along with a new focus on certain sectors including agriculture, telecommunications, commercial construction and private health insurance.

Last Friday, Australian Competition and Consumer Commission (**ACCC**) Chairman Rod Sims launched the ACCC's Compliance and Enforcement Policy for 2017 and outlined the regulator's key priorities for the year ahead. Given the breadth of the ACCC's statutory responsibilities, the policy serves as a useful guide to know where the regulator will focus its resources.

In 2017, the ACCC will introduce a series of new priorities in response to key issues that have arisen over the past 12 months, and maintain a number of existing compliance and enforcement priorities that continue to concern the competition and consumer watchdog.

## NEW PRIORITIES

The ACCC will prioritise its work in a range of specific sectors:

- the ACCC will focus on the agriculture sector, with resources being devoted to its formal inquiry into price competitiveness, trading practices and the supply chain in the Australian dairy industry;
- following the establishment of a dedicated commercial construction team, the ACCC will focus on a range of competition issues in the sector that have attracted public attention;
- in the wake of its report on the private health insurance sector in October 2016 and its

ongoing market study into new car retailers, the ACCC intends to pursue operators in these sectors to ensure compliance; and

- the ACCC will work with the telecommunications sector to develop best practice guidance for marketing broadband speeds, expected to be completed in the first half of 2017.

The ACCC will also target key areas important to consumer protection – such as country-of-origin labelling laws, payment surcharge laws, and product safety laws – as well as ensuring that small businesses are protected by the relevant industry codes of conduct.

## **ONGOING PRIORITIES**

The ACCC will maintain its focus on anticompetitive conduct that is detrimental to consumer welfare. This includes cartel conduct, anticompetitive agreements and practices and misuses of market power.

### **CRIMINAL CARTEL CONDUCT**

Rod Sims expressed frustration over the level of cartel activity in Australia and concluded that, in his view, only jail sentences for individuals involved in contraventions will send a sufficiently strong message to wrongdoers. Last year marked the first time criminal cartel charges had been brought against a company since the criminal cartel reforms were introduced in 2009. Sims also alluded to ongoing criminal cartel investigations and noted that the ACCC expected to engage in more enforcement activity in this space over the coming years.

### **MISUSE OF MARKET POWER**

In the wake of the introduction of the *Misuse of Market Power Bill 2016* (Cth) to Parliament, and the recent recommendation of the Senate Economics Legislation Committee that the Bill be passed, it is likely that the ACCC will be keen to pilot the new ‘effects test’ once the legislation is ultimately introduced. This, combined with the ACCC’s stated priority to pursue larger businesses, means that corporations that have a large footprint should seek advice about conduct likely to attract the regulator’s interest.

### **AUSTRALIAN CONSUMER LAW**

The ACCC will also maintain its focus on enforcing the Australian Consumer Law to protect vulnerable consumers. This includes:

- enforcing the unfair contracts terms regime (which since 12 November 2016, now applies to standard form small business contracts as well as consumer contracts);

- pursuing companies for failing to offer mandatory consumer guarantees; and
- prosecuting corporations for engaging in misleading and deceptive conduct.

The Compliance and Enforcement Policy for 2017 is available on the [ACCC website](#).



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